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HARDIN COUNTY, TEXAS

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Opinion Committee

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April 8, 1998

Hon. Dan Morales
Attorney General - State of Texas
Opinions Committee
Austin, Texas

FILE # ML-40213-8
I.D. # 40213

RE: Hardin County Law Library Fund

- (1) Whether Commissioners Court may disallow selection of management committee by the local bar association.
- (2) Whether a Deputy Sheriff's salary can be paid using money out of the library fund based on his occasional escorting of inmates to library for research purposes.

Dear Opinions Committee,

FACT SITUATION NO. 1

Under Sections 323.021 through 323.025 of the LOCAL GOVERNMENT CODE, a county is authorized to set up and maintain a law library to be funded by a fee taxed, collected, and paid as a cost in each civil case filed in a county or district court. Hardin County presently has a law library pursuant to the code located on the second floor of the Courthouse. The Hardin County Bar through its duly elected officers has petitioned the Hardin County Commissioner's Court to have a committee recognized by the Court that is selected by the bar for management and advice purposes, but the Court has refused to do so.

Legal Discussion under Facts No. 1

Section 323.021 (b) provides that "The commissioners court may, with the advice of the committee created under Section 323.024 use funds collected under this subchapter to acquire a location for the library, though priority in the use of funds shall be given to the acquisition of books, periodicals, other library materials, and staff for the library. The commissioners court may appropriate an amount not to exceed \$20,000 to establish the library and shall annually appropriate an amount necessary for the proper maintenance and operation of the library." Section 323.024 provides for management of the law

library stating:

"The commissioners court **may vest management** of the library in a committee selected by the county bar association." [emphasis added] Section 323.021(b) provides that "The commissioners court may, **with the advice of the committee created under Section 323.024**, use the funds... [for the] acquisition of books, periodicals, other library materials, and staff for the library." [emphasis added]

QUERY NO. 1 When Section 323.024 is read in conjunction with Section 323.021 (b) is the creation of a management committee selected by the local bar association mandatory if only to advise the court (if not to actually manage the library)?

COMMENT: Apparently, the legislature gave the option to the commissioner's court of retaining management of the library with the advice of the local bar committee or vesting management of the library in the bar committee.

FACT SITUATION NO. 2


The County Law Library is located on the second floor of the main Courthouse building whereas the jail is located on the first floor of the new addition connected to the courthouse and requires a deputy sheriff occasionally accompany an inmate to the library and remain with him while using the library because there is no law library in the jail. The county pays all the deputy's salary from the library fund.

Legal Discussion under Facts No. 2

Section 323.023 provides that "The fund may be used **only** for the purpose of establishing the law library after the entry of the order creating it **or** for the purpose of purchasing or leasing library materials, maintaining the library, or acquiring furniture, shelving, or equipment for the library."

QUERY NO. 2 Is the commissioners court permitted by the code, to pay the salary (in part or totally) of a Deputy Sheriff out of the library fund who occasionally escorts inmates to the law library for research purposes?

Respectfully Submitted,



CHARLES ROACH